

First Regular Session  
Sixty-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 01-0673.01 Thomas Morris

HOUSE BILL 01-1101

---

HOUSE SPONSORSHIP

Marshall

SENATE SPONSORSHIP

Thiebaut

---

House Committees

Business Affairs & Labor

Senate Committees

---

A BILL FOR AN ACT

101 CONCERNING THE ELIMINATION OF ALL-UNION AGREEMENT  
102 ELECTIONS UNDER THE "LABOR PEACE ACT".

---

Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Eliminates the requirement that employees hold an all-union agreement election prior to effectiveness of an all-union agreement.  
Makes conforming amendments.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 8-3-108 (1) (c) and (1) (e), Colorado Revised

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

1 Statutes, are amended to read:

2 **8-3-108. What are unfair labor practices.** (1) It is an unfair  
3 labor practice for an employer, individually or in concert with others, to:

4 (c) ~~(f)~~ Encourage or discourage membership in any labor  
5 organization, employee agency, committee, association, or representation  
6 plan by discrimination in regard to hiring, tenure, or other terms or  
7 conditions of employment; except that an employer shall not be prohibited  
8 from entering into an all-union agreement with the representatives of ~~his~~  
9 ~~THE EMPLOYER'S~~ employees in a collective bargaining unit. ~~if such~~  
10 ~~all-union agreement is approved by the affirmative vote of at least a~~  
11 ~~majority of all the employees eligible to vote or three-quarters or more of~~  
12 ~~the employees who actually voted, whichever is greater, by secret ballot~~  
13 ~~in favor of such all-union agreement in an election provided for in this~~  
14 ~~paragraph (c) conducted under the supervision of the director. Where the~~  
15 ~~collective bargaining unit involved is currently recognized under sections~~  
16 ~~8 or 9 of the "National Labor Relations Act", as amended, (49 Stat. 449;~~  
17 ~~61 Stat. 136), or where the collective bargaining unit involved is currently~~  
18 ~~recognized by reason of certification by the director or the national labor~~  
19 ~~relations board, or where such units were so recognized at the time of an~~  
20 ~~election provided for in this paragraph (c), there is and shall be deemed~~  
21 ~~to have been no need for a certification election as a precedent to an~~  
22 ~~election provided for in this paragraph (c) in such collective bargaining~~  
23 ~~unit on the issue of an all-union agreement. The employees in such a~~  
24 ~~recognized or certified unit within this state shall be the only employees~~  
25 ~~eligible to vote in an election provided for in this paragraph (c) held in~~  
26 ~~such unit.~~

27 ~~(H) (A) Any agreement as defined in section 8-3-104 (1) between~~

1 ~~an employer and a labor organization in existence on June 29, 1977,~~  
2 ~~which has not been voted upon by the employees covered by it may, by~~  
3 ~~written mutual agreement of such employer and labor organization, be~~  
4 ~~ratified and upon such ratification shall be filed with the director. Any~~  
5 ~~agreement as defined in section 8-3-104 (1) between an employer and a~~  
6 ~~labor organization in existence on June 29, 1977, which has not been~~  
7 ~~ratified and filed, as provided in this subparagraph (H), shall not be legal,~~  
8 ~~valid, or enforceable during the remaining term of that labor contract~~  
9 ~~unless and until either the employer, the labor organization, or at least~~  
10 ~~twenty percent of the employees covered by such agreement file a petition~~  
11 ~~upon forms provided by the division, demanding an election submitting~~  
12 ~~the question of the all-union agreement to the employees covered by such~~  
13 ~~agreement and said agreement is approved by the affirmative vote of at~~  
14 ~~least a majority of all the employees eligible to vote or three-quarters or~~  
15 ~~more of the employees who actually voted, whichever is greater, by secret~~  
16 ~~ballot in favor of such all-union agreement in an election provided for in~~  
17 ~~this paragraph (c) conducted under the supervision of the director.~~

18 ~~(B) Upon filing of such instrument of ratification with the director,~~  
19 ~~the director shall certify that such agreement complies with the provisions~~  
20 ~~of section 8-3-104 (1) notwithstanding the absence of any other election~~  
21 ~~requirements of this article, and by virtue of such ratification and~~  
22 ~~certification, such agreement shall be deemed legal, valid, and enforceable~~  
23 ~~to the extent permitted under the provisions of this article, subject to the~~  
24 ~~provisions of sub-subparagraph (D) of this subparagraph (H).~~

25 ~~(C) Within two weeks after the certification by the director~~  
26 ~~provided for in sub-subparagraph (B) of this subparagraph (H), the~~  
27 ~~employer which is a party to such agreement shall post or give written~~

1 ~~notice to all employees covered by such agreement on the date of~~  
2 ~~ratification of the fact that the agreement has been ratified and certified~~  
3 ~~pursuant to the provisions of this subparagraph (H) and of the right of such~~  
4 ~~employees to file a petition demanding an election as provided in~~  
5 ~~sub-subparagraph (D) of this subparagraph (H). Proof of giving of notice~~  
6 ~~shall be filed with the director within twenty days after the certification~~  
7 ~~by the director provided for in sub-subparagraph (B) of this subparagraph~~  
8 ~~(H):~~

9 ~~(D) Within forty-five days after the certification by the director~~  
10 ~~provided for in sub-subparagraph (B) of this subparagraph (H) twenty~~  
11 ~~percent of the employees covered by such agreement may file a petition,~~  
12 ~~upon forms provided by the division, demanding an election submitting~~  
13 ~~the question of ratification of such agreement to the employees covered~~  
14 ~~by such agreement. If ratification of the agreement is approved by the~~  
15 ~~affirmative vote of at least a majority of all the employees eligible to vote~~  
16 ~~or three-quarters or more of the employees who actually voted, whichever~~  
17 ~~is greater, in said election, the agreement shall be conclusively deemed~~  
18 ~~ratified. Such election shall be held as promptly as possible following the~~  
19 ~~filing of the petition. In the event that a certified contract expires or is~~  
20 ~~terminated prior to the conducting of such an election, such certification~~  
21 ~~shall be applicable to any subsequent agreement between the same parties~~  
22 ~~until such election may be held.~~

23 ~~(H) The director shall declare any such all-union agreement~~  
24 ~~terminated whenever:~~

25 ~~(A) He finds that the labor organization involved unreasonably has~~  
26 ~~refused to receive as a member any employee of such employer, and any~~  
27 ~~person interested may come before the director, as provided in section~~

1 ~~8-3-110, and ask the performance of this duty; or~~

2 ~~(B) The employer or twenty percent of the employees covered by~~  
3 ~~such agreement file a petition with the director on forms provided by the~~  
4 ~~division seeking to revoke such all-union agreement and, in an election~~  
5 ~~conducted under the supervision of the director, there is not an affirmative~~  
6 ~~vote of at least a majority of all the employees eligible to vote or~~  
7 ~~three-quarters or more of the employees who actually voted, whichever~~  
8 ~~is greater, in such election by secret ballot in favor of such all-union~~  
9 ~~agreement. Such petition may only be filed within a time period between~~  
10 ~~one hundred twenty and one hundred five days prior to the end of the~~  
11 ~~collective bargaining agreement or prior to a triennial anniversary of the~~  
12 ~~date of such agreement, and the division must complete said election~~  
13 ~~within sixty days prior to the termination or triennial anniversary of said~~  
14 ~~collective bargaining agreement. The director may conduct an election~~  
15 ~~within a collective bargaining unit no more often than once during the~~  
16 ~~term of any collective bargaining agreement or once every three years in~~  
17 ~~the case of agreements for a period longer than three years.~~

18 ~~(IV) The director shall provide a means by which employees may~~  
19 ~~submit confidential petitions for an election under this paragraph (c), a~~  
20 ~~means for verifying the employment, status, and eligibility of petitioners,~~  
21 ~~and a means for determining the sufficiency of such petitions with respect~~  
22 ~~to the twenty percent signature requirement, all of which shall be~~  
23 ~~accomplished without disclosing the identification of such petitioners,~~  
24 ~~except as allowed under subparagraph (V) of this paragraph (c). This duty~~  
25 ~~shall apply to petitions filed pursuant to subparagraph (II) (A), (II) (D), or~~  
26 ~~(III) (B) of this paragraph (c).~~

27 ~~(V) No officer or employee of the division shall disclose the~~

1 names of any signers to a petition or disclose how any person voted in an  
2 election to any person outside the division except pursuant to a court order  
3 or subpoena issued by a governmental authority or a court, and any such  
4 officer or employee who violates such nondisclosure provisions or who  
5 refuses to call an election pursuant to this paragraph (c) or prevents or  
6 conspires to prevent such call of an election commits a class 2  
7 misdemeanor and shall be punished as provided in section 18-1-106,  
8 C.R.S.

9 (e) Enter into an all-union agreement except in the manner  
10 provided in paragraph (c) of this subsection (1);

11 **SECTION 2.** 8-3-109 (3), Colorado Revised Statutes, is amended  
12 to read:

13 **8-3-109. What are not unfair labor practices.** (3) It shall not be  
14 an unfair labor practice for an employer engaged primarily in the building  
15 and construction industry to enter into an all-union agreement, except an  
16 agreement providing for an agency shop or modified agency shop, with a  
17 labor organization, which agreement is limited in its coverage to  
18 employees who, upon their employment, will be engaged in the building  
19 and construction industry. ~~if a copy of such agreement is filed with the~~  
20 ~~director and certified by him as provided in section 8-3-108 (1) (c) (H)~~  
21 ~~(B).~~ Such agreement may be ratified as provided in section 8-3-108 (1)  
22 (c) (H) (C) or terminated by the director as provided in section 8-3-108 (1)  
23 (c) (H).

24 **SECTION 3. Effective date.** This act shall take effect at 12:01  
25 a.m. on the day following the expiration of the ninety-day period after  
26 final adjournment of the general assembly that is allowed for submitting  
27 a referendum petition pursuant to article V, section 1 (3) of the state

1 constitution; except that, if a referendum petition is filed against this act  
2 or an item, section, or part of this act within such period, then the act,  
3 item, section, or part, if approved by the people, shall take effect on the  
4 date of the official declaration of the vote thereon by proclamation of the  
5 governor.